

KAMS300002642024



**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE
AND JMFC AT HUNSUR**

Present: Anitha, B.A.(Law) LLB.,
Prl.Senior Civil Judge and JMFC,
Hunsur

Dated this the 11th day of May 2026

CC No.100/2024

Complainant: Hunsur Town PS
V/s

Accused Persons: 1. Bharath.R., S/o Late Raju.K.,
Aged 40 years, Labourer,
R/at LIG 55 KHB Colony,
Kalkunike, Hunsur Town.
2. Vijayashree Rawath, S/o Bharath.R.,
Aged 30 years, Housewife,
R/at LIG 55 KHB Colony,
Kalkunike, Hunsur Town.

1.	Provision under which the application is filed	:	Under Section 311 of Cr.P.C.
2.	Relief sought for	:	To reopen the case and to recall PW2 and PW4 for the purpose of cross-examination
3.	The date on which the application is filed	:	15.04.2026
4.	Number of the application	:	Nil
5.	The date on which the objection is filed by the opponents	:	21.04.2026

6.	The date on which the orders passed on the said application	:	11.05.2026
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ORDERS PASSED ON AN APPLICATION FILED UNDER SECTION 311 OF CR.P.C.

When the case is posted for defence arguments, the learned counsel for accused No.1 and 2 have filed the present application under Section 311 of Cr.P.C to reopen the case and to recall PW2 and PW4 for the purpose of cross-examination.

2. In the application the learned counsel for accused persons stated that, the complainant filed the charge-sheet against the accused persons for the offences punishable under Section 506, 341, 504, 354(B) R/w 34 of IPC. PW2 was examined on 28.07.2025 and PW4 was examined on 03.11.2025 and on the said dates counsel for the accused persons could not appear before the court due to his personal problems and the cross-examination of PW2 and PW4 has been taken as nil. It is very much necessary and needed in the above case to cross-examine PW2 and PW4. Now the learned counsel for the accused persons are ready to cross-examine the witnesses on any day and if the application is not allowed the accused persons will be put great hardship. Hence, pleaded to allow the application.

3. On the other-hand, learned APP filed objection contending that, the application is not maintainable under law or on facts. CW2 and CW4 have been examined before the court and inspite of providing sufficient opportunities the

accused not chosen to cross-examine PW2 and PW4 and in order to dealy the proceedings this application is filed and if the same is allowed there is chances of winning over the said witnesses and there are no grounds made out in the application to recall PW2 and PW4 for the purpose of cross-examination. Already the arguments completed and for 9 months the accused kept quiet and now filed the application to drag on the proceedings. Hence, prayed to dismiss the application.

4. Thereafter heard arguments addressed by learned APP and learned counsel for the accused persons and perused the case papers. After hearing the arguments and on perusal of the case papers the points that arise for consideration are as hereunder:

POINTS

1. Whether the accused persons have made out sufficient grounds to reopen the case and to recall PW2 and PW4 for the purpose of cross-examination?
2. What order?
5. The findings on the above points are as hereunder

Point No.1: In the affirmative

Point No.2: As per the final order
for the following:

REASONS

6. **Point No.1:** The Head Constable of Hunsur Town PS has submitted the charge-sheet against the accused persons for the offences punishable under Section 506, 341,

354(B), 323 R/w 34 of IPC. It is the specific case of the prosecution that, on 12.12.2023 at about 6.30 a.m. at K.H.B.Colony of Kalkunike, Hunsur Town, in front of house No.LIG 55 when CW1 was cleaning the vessels the accused persons came there with common intention and started quarrel with her in connection with water and abused in filthy language, assaulted her with hands and tried to outrage her modesty by dragging her on the road and wrongfully restrained her from moving further and also given life threat to her.

7. After filing of charge-sheet this court took cognizance for the aforesaid offences and issued summons to the accused persons. In pursuance of service of summons the accused persons appeared before the court and they were released on bail. On 05.04.2025 the charge has been framed and the accused persons have pleaded not guilty and claimed to be tried. In order to prove the guilt of the accused persons, the prosecution got examined totally seven witnesses out of nine witnesses cited in the charge-sheet as PW1 to PW7. CW7 has been given up and CW1 has been reported dead and CW1 was dropped. CW5 has been examined as PW2 on 28.07.2025. On the said date the learned counsel for the accused persons sought time and this court rejected the said prayer and cross-examination of PW2 has been taken as nil. On 03.11.2025 CW5 Syed Faraj has been examined as PW4 and on the said date also only the accused persons were present, their counsel remained absent and as such cross-examination of PW4 was also taken as nil. Already the 313 statement of the accused

persons has been recorded and learned APP also addressed the arguments and when the case is posted for defence arguments this application came to be filed.

8. Admittedly, there is delay in filing this application. However, it is very much necessary to note that, the evidence of a witness completes only after the said witness is subjected for chief-examination, cross-examination and re-examination. Admittedly, PW2 and PW4 have not been subjected for cross-examination. PW2 is an eye-witness. PW4 is material witness. Both these witnesses are important witnesses to prove the prosecution case. If the accused is not permitted to cross-examine them it will definitely cause hardship to the accused persons and their opportunity to put-forth their defence will be curtailed. On the said grounds this court comes to conclusion that, the accused persons are entitled for cross-examination of PW2 and PW4. It is necessary to note that, there is delay in filing the present application. The said delay could be compensated by imposing costs. Therefore, this court comes to the conclusion that, accused persons have made out sufficient grounds to reopen the case and to recall PW2 and PW4 for the purpose of cross-examination. Accordingly, point No.1 is answered in the affirmative.

9. **Point No.2:** In view of the reasons discussed above, this court proceeds to pass following;

ORDER

The application filed by the accused No.1 and 2 under Section 311 of Cr.P.C is hereby allowed.

Accordingly, the case is reopened and PW2 and PW4 are hereby recalled for the purpose of cross-examination subject to payment of costs of Rs.500/- each which shall be payable to the witnesses on their appearance before the court.

(Dictated to the Stenographer directly on the computer and same is then corrected and pronounced by me in the open court on this the 11th day of May, 2026)

Sd/-

(Anitha)

Prl.Senior Civil Judge and JMFC.,
Hunsur.